

## REMARKS

The Office Action raised an indefiniteness concern, asserted § 102(b) rejections against claims 1, 7 and 9 based on U.S. patent 416,951 ("Roop"), and asserted § 102(b) and alternatively § 103 rejections against claims 1, 2, 4-6 and 8-12 based on U.S. patent 5,806,237 ("Nelson") alone, and alternatively Nelson in view of U.S. patent 5,720,951 ("Baker"). Claims 3, 7 and 13 were rejected based on Nelson in view of Baker, plus also either U.S. patent 5,449,514 ("Marshall") or 5,044,113 ("Stack"). In view of the above amendment, and the remarks below, reconsideration is respectfully requested.

### Definiteness

Applicants respectfully note that they believe that the claims as currently written are sufficiently clear with respect to the positioning. While functional language may be broad, breadth does not equate to indefiniteness. As currently written, the claims are clear in describing one position as being any position where concealment occurs and the other position being another position permitting internal examination. There is nothing indefinite about that.

In any event, in order to facilitate allowance, the claims have now been amended to further clarify that the first position is a covering position relative to the housing, and the second position is different from that sufficiently so as to permit the specified examination (e.g. partially off or completely off the covering position).

### Novelty Rejections

Roop was deemed to anticipate claims 1, 7 and 9. That rejection is respectfully traversed.

Claim 1 (and thus also claims 7 and 9) originally required and still require the poison and bait to be in the form of a mix. Roop fails to meet this limitation. Roop separates the chicken feed from the lice control agent that is applied via the sponge. As Applicants understand it, Roop applies the lice exterminator to the chicken's head as the chicken moves past a sponge that contains the poison. The feed is separately stored away from the sponge. There is no "mix" of the feed and poison.

In any event, the Office Action did not apply Roop against the claim 3 subject matter (relating to the adhesive). That subject matter is now essentially incorporated into claim 1 and 13 (and thus all remaining claims). Hence, regardless of the mixing issue, Roop should be deemed adequately distinguished by the above amendment.

In this regard, one goal of the present invention is to permit very small bait/poison packages to be used so as to

avoid the waste and other problems. It is desirable for enough poison to be present to kill a rat, without leaving excess poison around, and without the need for an aesthetically undesirable large bait station to be visible.

Applicants have had to overcome problems with this downsizing. In this regard, as the bait package gets smaller, it is harder to prevent the bait from being spread around undesirably (e.g. wind gusts; pets banging into them). Hence, anchoring of the package to a support, and the bait to the package, become of greater importance.

The Roop reference shows a very large box structure apparently intended to be placed outside on the ground. There is nothing in it to suggest using an adhesive to anchor such a structure.

The Nelson reference does teach a particular poisonous bait used in a closable container. However, again, the Office Action did not apply Nelson alone against claim 3 subject matter. Thus, again, the anticipation finding is believed to be overcome by the incorporation of claim 3 subject matter.

While this alone should resolve the anticipation issue with respect to Nelson, Applicants do not understand any finding of anticipation by Nelson against many of the original dependent claims. In this regard, the claim 2 subject matter (bottom wall, as distinguished from the cover, extending outward to form a handle), claim 6 subject matter (specific named rodenticides), claim 8 subject matter (bittering or malodorous agents), claim 9 subject matter (the package, as distinguished from the bait, being made with an animal attractant), and the claim 10 or 11 subject matter (use of wax and/or use of wax in a molding process) are not specifically addressed in the Office Action.

In the context of an obviousness rejection, the Office Action does note (apparently with respect to claims 6 and 8) that Nelson does describe an Ecolab bait. However, the Office Action does not even contend that this bait meets the claim language (and of course it is the PTO's burden to establish that if the PTO is making that contention).

#### § 103

With respect to the addition of the Baker reference to Nelson, the Office Action again did not apply Baker plus Nelson against the claim 3 subject matter. Hence, again, the addition of the claim 3 adhesive subject matter to claims 1 and 13 (and thus all claims) appears to avoid this rejection as well.

Apart from this, while Baker does have some pertinent teachings with respect to certain dependent claims, it does not cure any of the deficiencies regarding claims 2, 10 and 11. In this regard, it is respectfully inquired: Where is the

teaching of a handle formed by the base in Baker? Where is the teaching in Baker that wax can be used for molding or adhering the bait to the package (as distinguished from use to resist moisture)?

In a separate obviousness rejection, the Office Action also adds Marshall and Stack in the context of claims 3, 7 and 13. However, Stack and Marshall describe particularly shaped bait blocks (without separate packaging). They suggest nothing about anchoring packaging to a support surface via an adhesive.

In short, the cited art remains deficient in showing packaged bait structures with removable covers where the package can be anchored via an adhesive. The art is further deficient with respect to forming the base within an extension to create a handle for ease of positioning of the base, the concept of putting the attractant in the packaging for such a structure (so that a rodent will be encouraged to eat through the side of the package, so that an opening will not have to be preformed), and the concept of using wax for molding an adhering purposes.

#### Conclusion

In view of the above amendments, and the remarks above, reconsideration and allowance of amended claims 1, 2 and 4-13 is respectfully requested. No additional fee is believed to be needed for consideration of this amendment. However, if one is, please charge Deposit Account 10-0849 for the amount of the fee.

Respectfully submitted,  
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